

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SARA COOMBS-MORENO, REMO DELLO IOIO,
ELIZABETH LOIACONO, SUZANNE DEEGAN,
MARITZA ROMERO, JULIA HARDING, CHRISTINE
O'REILLY, AYSE P. USTARES, JESUS COOMBS,
ANGELA VELEZ, SANCHA BROWNE, ZENA
WOUADJOU, CHARISSE RIDULFO, TRACY-ANN
FRANCIS MARTIN, KAREEM CAMPBELL,
MICHELLE HEMMINGS HARRINGTON, MARK
MAYNE, CARLA GRANT, OPHELA INNIS,
CASSANDRA CHANDLER, AURA MOODY, EVELYN
ZAPATA, SEAN MILAN, SONIA HERNANDEZ,
BRUCE REID, JOSEPH RULLO, CURTIS BOYCE,
JOSEPH SAVIANO, NATALYA HOGAN, JESSICA
CSEPNU, ROSEANNE MUSTACCHIA, YULONDA
SMITH, MARIA FIGARO, RASHEEN ODOM,
FRANKIE TROTMAN, EDWARD WEBER, MERVILYN
WALLEN, PAULA SMITH, SARAH WIESEL,
SUZANNE SCHROETER, DAWN SCHOL, LYND SAY
WANSER, CHRISTIAN MURILLO, MONIQUE
MOORE, MONICA MARTIN, ALTHEA BRISSETT,
TRACEY HOWARD, MARC ROSIELLO, AUDREY
DENNIS, MARIE JOSEPH, TINA LYNCH, PATRICIA
CATOIRE, SALLY MUSSAFI, COLETTE CAESAR,
BERTRAM SCOTT, DIANE PAGEN, STELLA M.
PRESTON, RACHELLE GARCIA, JULIE LAWLEY,
SUSANNE PHILLIP, MARIA ESTRADA, JENNETTE
FRAZER, AND DEBBY HARTZ, AND DIANNE
BAKER-PACIUS individually and on behalf of similarly
situated individuals,

Plaintiffs,

v.

THE CITY OF NEW YORK, MAYOR ERIC L. ADAMS,
COMMISSIONER ASHWIN VASAN, MD, PHD, FORMER
MAYOR BILL deBLASIO, COMMISSIONER ASHWIN
VASAN, MD, PHD, AND FORMER COMMISSIONER
DAVE A. CHOKSHI, M.D., MSC., DEPARTMENT OF
HEALTH AND MENTAL HYGIENE, DEPARTMENT OF
EDUCATION, AND DOES 1-20

Defendants.

INDEX No.: 1:22 CV 02234-EK-LB

**AMENDED NOTICE OF APPEAL
CHANGE TO INTERLOCUTOR
APPEAL & NAME CORRECTION**

Notice is hereby given that the following parties:

SARA COOMBS-MORENO, REMO DELLO IOIO, ELIZBETH LOIACONO, SUZANNE DEEGAN, MARITZA ROMERO, JULIA HARDING, CHRISTINE O'REILLY, AYSE P. USTARES, JESUS COOMBS, ANGELA VELEZ, SANCHA BROWNE, ZENA WOUADJOU, CHARISSE RIDULFO, TRACY-ANN FRANCIS MARTIN, KAREEM CAMPBELL, MICHELLE HEMMINGS HARRINGTON, MARK MAYNE, CARLA GRANT, OPHELA INNIS, CASSANDRA CHANDLER, AURA MOODY, EVELYN ZAPATA, SEAN MILAN, SONIA HERNANDEZ, BRUCE REID, JOSEPH RULLO, CURTIS BOYCE, JOSEPH SAVIANO, NATALYA HOGAN, JESSICA CSEPNU, ROSEANNE MUSTACCHIA, YULONDA SMITH, MARIA FIGARO, FRANKIE TROTMAN, EDWARD WEBER, MERVILYN WALLEN, PAULA SMITH, SARAH WIESEL, SUZANNE SCHROETER, DAWN SCHOL, LYNDAY WANSER, CHRISTIAN MURILLO, MONIQUE MOORE, RASHEEN ODOM, MONICA MARTIN, ALTHEA BRISSETT, TRACEY HOWARD, MARC ROSIELLO, AUDREY DENNIS, MARIE JOSEPH, TINA LYNCH, PATRICIA CATOIRE, SALLY MUSSAFI, COLETTE CAESAR, BERTRAM SCOTT, DIANE PAGEN, STELLA M. PRESTON RACHELLE GARCIA, JULIE LAWLEY, SUSANNE PHILLIP, MARIA ESTRADA, JENNETTE FRAZER, DEBBY HARTZ AND DIANNE BAKER-PACIUS individually and on behalf of similarly situated individuals,

in the above-named case file this Amended Notice of Appeal to:

1. correct the type of “appeal” to change the appeal to an “Interlocutory Appeal” due to the incorrect selection in the filing drop down when originally filed; and to
2. correct clerical typographical errors in the names of the Plaintiffs listed in the previously filed notice of appeal filed on **October 25, 2024 at ECF #111** to the United States Court of Appeals for the Second Circuit from the order entered on **September 25, 2024 ECF#99**. Specifically, Plaintiffs request that the duplicative Plaintiff names be deleted, and the following names should be corrected and/or deleted as indicated below:

1. Monique More or Monique Moreno— corrected to Monique Moore
2. Elizbeth Loiacono – corrected to Elizabeth Loiacono
3. Mark Ayne – corrected to Mark Mayne
4. Delete the names of:
 - a. GEORGIANN GRATSLEY
 - b. MARK WHITSETT

5. Add the following names listed in the Fourth Amended Complaint ECF #88 and also listed above:

- a. RACHELLE GARCIA
- b. JULIE LAWLEY
- c. SUSANNE PHILLIP
- d. MARIA ESTRADA
- e. JENNETTE FRAZER
- f. DEBBY HARTZ
- g. DIANNE BAKER-PACIUS

Plaintiffs hereby requests the Second Circuit to answer the following pure questions of law:

1. Does the OSH Act under 29 U.S.C. §660 Section 11(c)(1) & (2) provide a private right of action to any employee who is wrongfully discharged by any public or private employer for exercising their First Amendment Free Exercise religious practice of refusing immunization/vaccines, medical treatment or medical testing, which religious practice is protected by the statutory provision of the OSH Act under 29 U.S.C. §669 Section 20(a)(5);
2. Does Section 1983 provide a private right of action for monetary and injunctive relief against the enforcement of a New York City vaccine mandate municipal law that:
 - a. violates the First Amendment Free Exercise Clause under both the strict scrutiny and rational basis tests; and
 - b. violates the federal OSH Act Preemption Clause under 29 USC §667 Sec. 18(a) and the OSH Act anti-discrimination clause under 29 U.S.C. §660 Section 11(c)(1) and the anti-vaccine mandate clause under 29 U.S.C. §669 Section 20(a)(5);
3. Should expert affidavits and plaintiffs affidavits attached to a complaint containing evidence to prove an essential element of a Plaintiffs claim and relied upon in a complaint through an incorporation by reference be considered a “written instrument” under FRCP Rule 10(a) and reviewed and considered as part of a complaint on a motion to dismiss; and

4. Does Judicial Canon 3B6 of the Code of Conduct for United States Judges require a district court judge to at least hold a hearing to investigate and interrogate through questioning of a lawyer on the record who has been charged by an opposing lawyer for committing fraud on the court under FRCP Rule 11 and Rule 60(b)(3) for making a legal contention that was legally indefensible and groundless in law for which a judge is provided evidence indicating the likelihood of unprofessional conduct by the offending lawyer; and
5. Is it a breach of Judicial Canon 3A(2) for a federal district court judge to dismiss a case for failure to state a claim without ever providing the Plaintiff the right to be heard during the entire 2 and ½ year pendency of the case on all prior pending motions?

November 11, 2024

Respectfully submitted,

/s/ *Jo Saint-George*

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